THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21600 of 2006

Between:

M/s.Rajahmundry Expressway Limited, represented by its Authorised Signatory, K.Sambasiva Rao

... Petitioner

AND

The Superintending Engineer, Operations, Assessments, E.P.D.C.L., Visakhapatnam

And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21600 of 2006

ORDER:

The petitioner is a licensee of National Highways Authority of India (NHAI) for collection of toll tax on Rajahmundry-Dharmavaram Road Project on NH5. The petitioner company availed electricity Service Connection No.399 for its toll plaza. The same was inspected by the third respondent on 14.10.2005 and on 02.12.2005. It was noticed that the petitioner did not instal required capacitors. The third respondent, therefore, served a notice on 14.10.2005 requiring the consumer to instal capacitors within a month. The same was not done, as was noticed by the third respondent during the inspection on 02.12.2005. Therefore, the third respondent served provisional assessment notice imposing capacitor surcharge amount of Rs.2,13,525/- as per the Terms and Conditions of Supply duly enclosing a calculation sheet. The said notice was served on NHAI, Rajahmundry. The petitioner made representations, on 21.3.2006 and 22.3.2006 to the Divisional Engineer, Operations, Jaggannapeta, (not a party to this writ petition) and another representation on 23.6.2006 to the first respondent, raising objections of levy of capacitor surcharge. The first respondent did not pass orders. In the meanwhile, the fourth respondent again sent a letter on 19.6.2006 to NHAI, Rajahmundry, requesting the payment within seven (7) days. Apprehending disconnection of power supply, the present writ petition is filed.

Learned Counsel for the petitioner contends that the fourth respondent issued the impugned provisional assessment notice in *mala fide* exercise of power. Secondly, he would urge that the capacitor is required for the motor, which is used to operate highmast lighting system. He would submit that the motor is operated for one or two hours in a year, as the highmast lighting is not regularly used. Therefore, he submits that the issue of the provisional assessment order is illegal and arbitrary.

The provisional assessment order or the consequential orders were issued by the fourth respondent to NHAI, Rajahmundry, and not to the petitioner. Be that as it is, presumably for the reason that service connection is obtained by the petitioner, he sent representations to the Divisional Engineer as well as Superintending Engineer (Assessments). When the issue of payment of capacitor surcharge is pending with the first respondent, it would not be proper for this Court to entertain the writ petition especially when this writ petition is filed after lapse of eight months after receiving the impugned provisional assessment order. Therefore, this Court is not inclined to admit the writ petition. The first respondent may consider the representation/ representations made by the petitioner, if they are made, and pass necessary orders. In this writ petition, no relief can be granted.

The writ petition is accordingly dismissed. No costs.

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October 18, 2006 **(V.V.S.RAO,J**)

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